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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**

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7 JOSEPH VALDEZ, individually and)
8 on behalf of all others similarly situated,)

9 Plaintiffs,)

10 vs.)

11 COX COMMUNICATIONS LAS)
12 VEGAS, INC., VIDEO INTERNET)
13 PHONE INSTALLS, INC., QUALITY)
14 COMMUNICATIONS, INC., SIERRA)
15 COMMUNICATIONS, CO.,)

16 Defendants.)

2:09-CV-01797-PMP-RJJ

ORDER

16 Before the Court for consideration is Defendants' Joint Motion and Petition
17 for Certification of An Interlocutory Appeal, to Amend Interlocutory Order to
18 Include Statement Required by 28 U.S.C. § 1292(b), and to Stay Distribution of
19 Notice of Pendency Pending Outcome of the Appeal (Doc. #114), filed on July 9,
20 2010.

21 By this motion Defendants seek interlocutory review before the Ninth
22 Circuit Court of Appeals of this Court's Order (Doc. #112) for a determination
23 whether, when the lone named Plaintiff (Valdez) is disqualified from acting as the
24 Class Representative in a collective action lawsuit under the Fair Labor Standards
25 Act, and there is no other named Plaintiff representative to act on behalf of the class:
26 (1) distribution of notice of pendency of the action to putative class members is

1 precluded, and (2) whether the collective action should be dismissed, leaving the
2 lone named Plaintiff (Valdez) to proceed individually on his claims.

3 Finding that the issues proposed for interlocutory review raise serious
4 questions which are potentially case dispositive, the Court concludes that
5 Defendants' joint motion should be granted.

6 **IT IS THEREFORE ORDERED** that Defendants' Joint Motion and
7 Petition for Certification of An Interlocutory Appeal, to Amend Interlocutory Order
8 to Include Statement Required by 28 U.S.C. § 1292(b), and to Stay Distribution of
9 Notice of Pendency Pending Outcome of the Appeal (Doc. #114) is **GRANTED**.

10 **IT IS FURTHER ORDERED** that distribution of the *NOTICE OF*
11 *PENDENCY OF COLLECTIVE ACTION LAWSUIT UNDER THE FAIR LABOR*
12 *STANDARDS ACT* is hereby stayed pending resolution of the Interlocutory Appeal
13 before the Ninth Circuit Court of Appeals.

14 **IT IS FURTHER ORDERED** that Defendants shall initiate the
15 Interlocutory Appeal permitted by this Order not later than **October 1, 2010**.

16 **IT IS FURTHER ORDERED** that by granting Defendant's Motion for
17 Interlocutory Appeal, the Court is not staying the 90 day re-opening of discovery on
18 the issue of Defendant Cox's status as a joint employer, which is the subject of a
19 separate Order entered this date.

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21 DATED: September 13, 2010.

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24 PHILIP M. PRO
25 United States District Judge
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